IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO.226 OF 2002

The Commissioner of Income-tax-I,
Mumbai City-II, Mumbai .. Appellant

v/s.

M/s.Balsara Hygiene Products Ltd. .. Respondent

Ms.S.V.Bharucha with Mr.K.R.Chaudhary i/by
Mr.H.D.Rathod for appellant.

Mr.Prakash Shah i/by M/s.DSK Legal for respondent.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 27th August, 2004

P.C.

Heard Ms.S.V.Bharucha, the learned counsel for the revenue.

2. In the memorandum of appeal, two substantial questions of law have been proposed which read thus-

"(i) Whether on the facts and in the circumstances of the case and in law the ITAT erred in deleting the addition of Rs.98,000/- made to the closing stock on account of unutilised Modvat credit?

(ii) Whether on the facts and in the circumstances of case and in law, the ITAT erred in holding that the respondent is entitled for deduction u/s.32AB of the I.T.Act?"

3. So far as proposed question No.(i) is concerned, we find that the controversy raised

therein is concluded by the judgment of the Supreme Court in the case of Commissioner of Income Tax v. Indo Nippon Chemicals Co.Ltd., 261 ITR 275.

4. As regards proposed question No.(ii), it transpires from the order of the Tribunal that based on its earlier decision for the assessment year 1987-88, the Tribunal held that the assessee was entitled for the protection under section 32AB of the Income Tax Act. The learned counsel for the revenue did not demonstrate that the said decision of the Tribunal given in the matter of assessee for the assessment year 1987-88 was challenged by the revenue.

5. In the circumstances, the appeal does not give rise to any substantial question of law. Dismissed in limine.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)